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11/07/06 JFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/734,581  
Filed : December 15, 2003  
Applicant : HUNTER et al.  
TC/A.U. : 1651  
Examiner : Lilling, Herbert J.

for  
Allowance

Docket No. : 2145-148  
Customer No. : 06449  
Confirmation No. : 1947

AFTER F. Rej.

OK to enter

RESPONSE AND AMENDMENT

11/07/06

Director of the United States Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the final Office Action dated August 4, 2006,  
Applicants submit the following. A declaration accompanies this  
response.

**Amendment to the Specification** begin on page 2. OK

**Amendment to the claims** begin on page 3.

OK to enter claims

**Remarks** begin on page 5.

OK



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DECLARATION

Director of the United States Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The undersigned, an officer of Bioheap Limited, 48 Lake Street, Northbridge, Western  
Australia 6003, AUSTRALIA declares:

1. That Bioheap Limited (formerly Pacific One Technology (Australia) Ltd.) is the  
assignee of the above-captioned application.
2. That a deposit of the bacterial cultures recited in the claims of the above-  
captioned application has been made under the terms of the Budapest Treaty at the Australian  
Government Analytical Laboratories (AGAL), the New South Wales Regional Laboratory, 1,  
Suakin St., Pymble, NSW 2073, AUSTRALIA (Deposit Accession No. NM99/07541). This  
depository affords permanence of the deposit and ready access thereto by the public.

3. That upon the granting of a patent in the above case, all restrictions, if any, upon  
the availability of the cultures to the public will be irrevocably removed.

4. That the listed deposits shall be replaced should they ever become non-viable.

→ OK. to overcome rejection for allowance

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5. The undersigned further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6. Statement under 37 CFR §3.73(b)

I am an authorized representative of Bioheap Limited the assignee of 100% interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application. The assignment was recorded June 22, 2004 in the United States Patent and Trademark Office at Reel 014807, Frame 0787. A change of name for the assignee was recorded February 14, 2005 at the United States Patent and Trademark Office at Reel 015708, Frame 0918.

Bioheap Limited

sig<sup>a</sup>  
 By X hulk  
X Colin J. Hunter  
 Typed or printed name  
X Director  
 Title  
4/10/2006  
 Date

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BUDAPEST TREATY ON THE INTERNATIONAL  
DEPOSITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

101734,581

RECEIVED

INTERNATIONAL FORM

25 OCT 1999

TO Tamsin Williams  
Pacific Ore Technology Pty Ltd  
1st Floor, 24 Auburn St  
West Perth  
PO Box 1073, West Perth  
NAME AND ADDRESS  
OF DEPOSITOR

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
Issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
Identified at the bottom of this page

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR:  as above	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  NM99107541
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I above was accompanied by:  <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation  (Mark with a cross where applicable)	
III. RECEIPT AND ACCEPTANCE	
This International Depositary Authority accepts the microorganism identified under I above, which was received by it on 20/10/99 (date of the original deposit)	
IV. RECEIPT OF REQUEST FOR CONVERSION	
The microorganism identified under I above was received by this International Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion)	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: AUSTRALIAN GOVERNMENT ANALYTICAL LABORATORIES PO Box 385 Pymble, 2073 Phone (01)449 0111 Address: Facsimile (02)449 1653	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  Date: 20 October 1999

BEST AVAILABLE COPY

1 Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired